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June 22, 1961
Opinion No. 61-46

REQUESTED BY: Arizona Highway Department
C. L. Lane
Motor Vehicle Division

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Must a bank be licensed as a
motor vehicle dealer to sell
motor vehicles that it has
repossessed under A.R.S. Sec.
44-319, Sec. 44-320 or Sec.
33-757?

CONCLUSION: No.

A.R.S. Sec. 33-757 is the general provision for foreclosure of chattel mortgages and does not pertain to motor vehicles exclusively. There is nothing in this section that requires a bank to be a licensed used car dealer to dispose of vehicles repossessed under this section. Sec. 28-1301(8) defines "used motor vehicle dealer". A lender, as a bank, in protecting or realizing on its security does not fall within this statute.

A.R.S. Sec. 44-319 provides for compulsory resale by seller and a bank repossessing under this section need not have a used car license to dispose of the repossessed vehicles.

A.R.S. Sec. 44-323 sets forth the rights of the seller when there is no resale.

A.R.S. Sec. 44-320 provides that unless 50% of the purchase price has been paid and the buyer demand in writing within 10 days after repossession there need not be a sale. The only instance where a resale is not required is when the buyer has not demanded it within 10 days after repossession and less than 50% of the purchase price has been paid.

It is the opinion of this office that a bank does not need a used car dealer's license to sell or dispose of vehicles repossessed under any of the above sections.

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